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GENERAL ASSEMBLY
Fiftieth session
Items 39, 75 and 81 of the
preliminary list*
LAW OF THE SEA
STRENGTHENING OF SECURITY AND
COOPERATION IN THE
MEDITERRANEAN REGION
MAINTENANCE OF INTERNATIONAL
SECURITY

SECURITY COUNCIL
Fiftieth year

Letter dated 21 June 1995 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

With reference to the letter of the Permanent Representative of Greece circulated as a document of the General Assembly and of the Security Council (A/50/216-S/1995/476), I have the honour, upon instructions of my Government, to bring to your attention a potentially serious situation with respect to the issue of territorial sea in the Aegean and to represent Turkey's position in this regard.

The Greek Parliament has recently ratified the 1982 Law of the Sea Convention. The statements of Greek government officials, as reported in the Greek press, and confirmed by the aforementioned letter, indicate that Greece intends to extend the breadth of its territorial sea in the Aegean from the present 6 miles to 12 miles. As stated by Greek officials, this decision will be taken at the appropriate time in accordance with the Greek "national strategy".

The issue of the maritime jurisdiction areas in the Aegean and the breadth of the territorial sea in this context is a serious matter that requires careful consideration. The elements involved should be considered in their proper

* A/50/50/Rev.1.

context based on facts and be put under objective analysis. It is regrettable that the Greek letter at reference represents an attempt to distort and misrepresent the well-known position of Turkey on this issue and the underlying legitimate reasons, in connection with the recent declaration adopted by the Turkish Grand National Assembly.

The purpose of this letter is to set the record straight in this regard.

Turkey and Greece have a number of bilateral disputes concerning the Aegean Sea. These differences essentially involve the status quo in the Aegean as determined by the relevant international treaties and instruments, particularly the 1923 Lausanne peace treaty.

Turkey attaches vital importance to the maintenance of the status quo in the Aegean with respect to maritime jurisdiction areas. In this context, the breadth of the territorial sea is the cardinal element of the delicate balance of rights and interests of the two neighbouring countries in the Aegean.

Turkey and Greece both have basic rights and legitimate interests in the Aegean involving their security, economy, navigation and other traditional uses of the high seas. The two countries have commonly used the Aegean for these purposes in accordance with international law. This has been one of the fundamental elements of the Aegean status quo.

The Greek perception laying claim to the whole of the Aegean Sea and its consistent attempts to alter the status in total disregard of Turkey's rights and interests lie at the heart of the bilateral disputes in the Aegean.

The Aegean is a narrow, semi-enclosed sea with the most peculiar geographical features. The special circumstances are unusual and exceptional. With its complex and singular structure, the Aegean is a unique sea. In view of this, the issue of the territorial sea may not be considered in isolation from the unique features of the Aegean.

Under the present 6-mile territorial sea limit of both countries, Greece, owing to the existence of numerous islands, possesses approximately 43.5 per cent of the Aegean. Turkey's share is 7.5 per cent. The remaining half of the Aegean is high seas, which is freely used by Turkey and the international community in accordance with international law.

Any extension of the Greek territorial sea beyond 6 miles will transform the Aegean virtually into a Greek lake. Greek sovereignty would be extended over the present high seas, the international airspace as well the continental shelf, which remains a disputed area yet to be delimited between Turkey and Greece.

Thus Turkey, with a long coastline in the Aegean measured in thousands of miles, will be locked out of this sea. The Turkish coasts will be encircled by Greek territorial waters and Turkey will be virtually cut off from the high seas.

The consequences of the extension of the Greek territorial sea, in essence, are not limited to the internationally recognized navigational rights and freedoms as has been presented by Greece.

As a result, almost all the Aegean Sea, with its seabed, superjacent waters and airspace, will automatically fall under Greek sovereignty and jurisdiction.

The Greek letter in reference conveniently remains silent on this score and instead refers to the right of "innocent passage" under international law, as if what is involved here solely concerned the right of navigation.

Greece cites article 3 of the 1982 Law of the Sea Convention as the basis of its right to extend its territorial sea. This argument has no valid basis.

In the first place, Turkey is not a party to the said Convention. Secondly, it may be worthwhile to recall that Turkey has consistently maintained its objection to a 12-mile limit for the breadth of the territorial sea in the context of semi-enclosed seas where special circumstances prevail. Therefore, it is obvious that the 12-mile limit could not be opposable to Turkey as a rule that acquired the character of customary law, in the special case of the Aegean. Thirdly, the 12-mile limit envisaged in article 3 is neither compulsory nor a limit to be applied automatically. It is a maximum permissible breadth that may be applied, as the circumstances permit, within the limitation imposed by the general principle of international law as embodied in article 300 of the Convention, namely the obligation to exercise rights in a manner that would not constitute an abuse of right.

In this context, it is worth recalling the recent statement made by Greek European Affairs Minister, George Mangakis, in connection with the ratification of the Law of the Sea Convention. The Athens News Agency bulletin of 1 June 1995 quoted Minister Mangakis as stating that "the Convention was truly of national importance, as it provided the country (Greece) with a weapon in the defence of its rights and national interests". The statement speaks for itself. This is incontestable proof of how Greece perceives the issue of territorial sea.

It was against this background that the Grand National Assembly of Turkey adopted the declaration in question. It was an expression of the legitimate concerns of Turkey in the face of Greek designs on the Aegean.

The Greek letter contains certain inappropriate references in depicting the respective policies and practices of Turkey and Greece. These assertions call for a brief and factual reply.

First, it is alleged that there have been other occasions of violation of international law by Turkey. It is an irony that Greece raises the issue of respect for international law. The Greek attitude and its reluctance in cooperation against terrorism; the illegal Greek claim for 10-mile airspace beyond its 6-mile territorial sea, which is not recognized by the international community; and the militarization of certain islands in the Aegean contrary to its contractual obligations under international treaties that placed these

islands under demilitarized status are outstanding examples of the ostensible Greek claim for respect for international law and legality.

It is also claimed that Greece has a peaceful posture in the Balkans in contrast to the alleged policy orientation of Turkey aimed at the deterioration of the political climate in the Balkan region.

The Greek contribution to peace and stability in the Balkans is manifested by the Greek stand in the ongoing Bosnian tragedy; by the imposition of the illegal embargo against the Republic of Macedonia; and by its hostile policy towards its two neighbours, Albania and Macedonia.

The letter of the Greek Permanent Representative repeats once again the unfounded allegation that Turkey has claims against the Greek islands. This is simply not true. Turkey harbours no designs or territorial ambitions against Greece or any of its neighbours.

Turkey is fully committed to the peaceful settlement of the whole range of disputes through dialogue and negotiations in a spirit of mutual understanding and accommodation. The two neighbours have a vast community of interests in defusing tensions and creating conditions that would ensure the development of friendship. Turkey still awaits a positive response of Greece to its repeated calls for charting such a new course in bilateral relations. This will not only serve the best interests of the two nations, but will also contribute to peace and stability in the region.

Greece, however, seems determined to pursue a different course. It is the declared intention of Greece to retain the threat of unilateral extension of territorial sea in the Aegean as a permanent and perpetual policy instrument in its relations with Turkey.

Turkey will not acquiesce in unilateral acts designed to upset the status quo in relation to maritime jurisdiction areas in the Aegean. Turkey is determined to protect fully its legitimate rights and interests in the face of a fait accompli in the Aegean. Turkey will be obliged to take all necessary measures, as required by the circumstances, for this purpose in the case of such a development.

It is our sincere hope that our neighbour Greece will refrain from pursuing an adventurous policy and realize the long-term benefits of achieving a lasting settlement of bilateral disputes and friendship and cooperation between Turkey and Greece.

I would like to request that this letter be circulated as a document of the General Assembly under items 39, 75 and 81 of the preliminary list, and of the Security Council.

(Signed) İnal BATU
Permanent Representative

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PROTECTION AND SECURITY OF
SMALL STATES

SECURITY COUNCIL
Fiftieth year

Letter dated 21 June 1995 from the Permanent Representative of Peru to the United Nations addressed to the Secretary-General

I have the honour to refer to the letter dated 8 May 1995 addressed to you by the Permanent Representative of Ecuador to the United Nations (A/49/899-S/1995/365).

In the penultimate paragraph of the aforementioned letter, the Permanent Representative of Ecuador states:

> "(g) The Government of Ecuador considers that the Itamaraty and Montevideo Declarations constitute an important and, so far, successful contribution to the end of confrontations in Alto Cenepa. Nevertheless, the normalization of relations between Ecuador and Peru will still require additional efforts. Unfortunately, the two countries still differ with regard to territorial matters owing to legal shortcomings and the impossibility of implementing the 1942 Rio de Janeiro Protocol in one geographic sector. In this regard, I am pleased to inform you that Ecuador is prepared, as it always has been, to discuss ways of solving the problem with a view to promoting the peaceful and final settlement of its disputes with Peru."

With regard to this letter from Ecuador, my Government wishes to clarify and place on record the following:

(a) The territorial dispute between Peru and Ecuador was definitively settled with the signing in Rio de Janeiro, on 29 January 1942, of the Peruvian-Ecuadorian Protocol of Peace, Friendship and Boundaries, to which Argentina, Brazil, Chile and the United States of America, in their capacity as guarantor countries, also subscribed. The Protocol was freely adopted by the Congresses

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of Peru and Ecuador, and the exchange of the instruments of ratification took place at Petropolis, Brazil, on 31 March 1942, in the presence of the President of Brazil and the representatives of the other guarantor countries.

(b) In implementation of the Protocol, between 1942 and 1951, the Combined Peruvian-Ecuadorian Border Demarcation Commission placed boundary markers along more than 90 per cent of the boundary established in accordance with article 8 of the aforementioned Protocol.

(c) The disagreements that arose in the course of demarcation were resolved by the Aranha formula of 1944 and the 1945 ruling of the arbitrator, Días de Aguiar, in compliance with which the demarcation of the common boundary continued until 1951. In that year Ecuador withdrew from the Combined Border Demarcation Commission claiming that it was impossible to implement the Rio de Janeiro Protocol, the very issue that had been settled by the arbitral ruling of Días de Aguiar, which had been formally accepted by both countries and largely implemented.

(d) In 1960, once again changing its position with regard to the Rio de Janeiro Protocol, Ecuador unilaterally declared the Protocol to be null and void. Ecuador's position was immediately rejected by the guarantor countries, which unanimously demanded in a note dated 7 December 1960 that Ecuador should comply with the Protocol.

(e) After 35 years, Ecuador has abandoned its refusal to recognize the Rio de Janeiro Protocol, as is clear from the Itamaraty Peace Declaration and the Montevideo Peace Declaration, and has undertaken to begin discussions, with the cooperation of the guarantor countries of the Rio de Janeiro Protocol, with a view to finding a permanent solution to the remaining impasses in order to complete the demarcation process which was unilaterally interrupted by Ecuador.

However, the insistence of the Permanent Representative of Ecuador that alleged differences with Peru remain with regard to territorial matters makes it clear that, after accepting the Rio de Janeiro Protocol, his Government has no real desire to rectify the situation, but, instead, is trying to find a new way of avoiding the obligations it assumed in signing that treaty. In this respect, it is a matter of concern to Peru that Ecuador, violating the agreed confidentiality of the ongoing process, has announced its rejection of the recommendation on a demilitarized zone which was made simultaneously to Peru and Ecuador by the Military Observer Mission of the Guarantor States in fulfilment of paragraph 3 of the Itamaraty Peace Declaration, a proposal which was immediately accepted by my Government.

There is neither a legal problem nor a territorial problem between Peru and Ecuador but a situation resulting from the many occasions on which Ecuador has modified its position with regard to the Protocol in order to impede the demarcation of a small section of the border.

The definitive solution to the "remaining impasses" between our countries which, in accordance with paragraph 6 of the Itamaraty Declaration of Peace between Ecuador and Peru, must be found by the parties with the assistance of the guarantor countries, will have to conform with international law and fully

respect the 1942 Rio de Janeiro Protocol and the Días de Aguiar arbitral ruling of 14 July 1945.

Lastly, while requesting that this letter be circulated as a document of the General Assembly, under agenda item 74, and of the Security Council, I wish to reiterate my Government's opinion, set forth in my letter of 15 March 1995 (A/49/864-S/1995/201), that we believe it to be inappropriate, unwarranted and contrary to the interests of small States to make use of an agenda item which was proposed for other purposes and, in an opportunistic manner, to seek to legitimize violent acts which are contrary to the bilateral border treaties that have been signed and ratified and to international law in general, such as the aggression perpetrated by Ecuador through the infiltration of its troops into the Peruvian territories of Alto Cenepa and the "evacuation" operation which, according to the "war dispatch" of the Commander-in-Chief of the Ecuadorian Army, was carried out on 26 January 1995.

It is relevant to note in this respect that the acts concerned have all the basic characteristics established in General Assembly resolution 3314 (XXIX), on the Definition of Aggression and its modalities.

(Signed) Fernando GUILLEN
Permanent Representative

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LETTER DATED 23 JUNE 1995 FROM THE PRESIDENT OF THE SECURITY COUNCIL ADDRESSED TO THE SECRETARY-GENERAL

The members of the Security Council are grateful for your letter of 1 June 1995 about the implementation of resolution 986 (1995) (S/1995/495).

The members of the Council accept your conclusions, including that cooperation from the Government of Iraq is an essential prerequisite for the implementation of the resolution, and, in the absence of such cooperation, they endorse your decision to postpone preparation of the report requested in paragraph 13 of the resolution.

The members of the Council hope that you will take the opportunity of your contacts with the Government of Iraq to obtain its agreement to the implementation of the resolution, which represents a temporary measure to provide for the humanitarian needs of the Iraqi people.

(Signed) Detlev GRAF ZU RANTZAU
President of the Security Council

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